

Proposed Changes to Marion County Circuit
and Superior Court Civil Division Rules

NOTE: New language is indicated by underlined text. Deleted or changed language is indicated by the inclusion of the original stricken language with ~~strikethrough~~.

Rule 5.1. Requirements for Motions

A. Notice. When a motion requires notice, the serving of the copy of the motion upon the other parties in the cause shall constitute notice of filing; If the motion requires a hearing or oral argument, the Court shall set the time and place of hearing or argument on the motion. Except for initial motions made pursuant to subsection D herein, all motions filed with the court shall include a brief statement indicating whether opposing party(ies) object to or approve of the granting of said motion.

B. Response. ~~Unless otherwise provided~~ If the statement regarding the position of the opposing party(ies) required under subsection A herein indicates that objection to the granting of said motion may ensue, said objecting a party shall have fifteen (15) days from the date of filing to file a response to a said motion, ~~other than a motion for continuance or enlargement of time.~~

C. Oral Arguments on Motions and Other Pleadings. When an oral argument is requested, the request shall be by separate instrument and filed with the pleading to be argued. Any such oral argument requested may be heard only at the discretion of the Court. This rule shall not apply to a hearing on Motion for Summary Judgment.

D. Enlargement of Time. Initial written motion for enlargement of time pursuant to Rule TR 6(B)(1) to respond to a claim shall be automatically allowed for an additional thirty (30) days from the original due date without a written order of the Court. Any motion filed pursuant to this rule shall state the date when such a response is due and the date to which time is enlarged. The motion must be filed on or before the original due date or this rule shall be inapplicable. All subsequent Motions shall be so designated and will be granted only for good cause shown.

E. Tender of Orders. All motions seeking an order of the Court shall be accompanied by a sufficient number of orders to be executed by the Court in granting said motion. In addition to the orders, the notice shall be accompanied by stamped, addressed envelopes to all parties of record.

Rule 16.3. Alternative Dispute Resolution.

A. Mediation Procedure

- 1.. Case selection shall be governed by A.D.R. Rule 2.2.
2. Mediator selection shall be governed by A.D.R. Rule 2.4. Mediators approved by the

Indiana Supreme Court Commission for Continuing Legal Education shall be entered into the Court's computer system. If the parties are unable to select a mediator by agreement pursuant to A.D.R. Rule 2.4, the Court will generate a list of three mediators by random selection through the computer.

3. The parties shall have ten (10) days to strike from the panel of mediators named by the Court. The party that initiated the cause of action shall strike first. If the parties fail to strike within ten (10) days, the Court shall select a mediator. Upon selection of the mediator, counsel for the party that initiated the litigation shall submit a proposed order appointing the mediator selected in the case.

4. During the entire mediation process, the lawsuit shall remain on the Court's docket.

5. Absent an agreement by the parties or unless otherwise ordered by the Court, the standard fee for mediation ordered by the Court shall be One Hundred and Twenty-Five Dollars (\$ 125.00) per hour, plus expenses and the fees and expenses associated with the mediation shall be shared equally by the parties unless good cause can be shown by a party why an equal division of the fees should not be ordered. In the case of team mediation, the fee is to be split between the mediators as the co-mediators are to be treated as a unit. A mediator may petition the Court for a higher fee predicated on the level of skill necessary to mediate the case, the complexity of the case, and the litigant's ability to pay.

6. The mediator and the parties shall make a good faith effort to complete the mediation process within sixty (60) days from the date of the Order to engage in mediation. In the event that the mediation process is not completed within this time, the mediator shall file a status report with the Court setting forth the projected date of completion.

7. Within twenty-four (24) hours prior to the scheduled mediation conference or such other time as the mediator declares, the parties shall submit to the mediator a Confidential Mediation Statement. Such statement shall include, without limitation, a brief recitation of: (a) the facts relevant to the dispute; (b) the amount in controversy or other relief requested; (c) the progress of the litigation to date; (d) the status of negotiations; and (e) the factors, including factual and legal contentions as to both liability and damages, which have been considered or relied upon in arriving at the current settlement posture.

8. All parties, attorneys with settlement authority, representatives with settlement authority, and other necessary individuals shall be present at each mediation conference to facilitate settlement of a dispute unless excused by the court or by stipulation of the parties.

~~7.~~ 9. After the conclusion of the mediation, the mediator will have fifteen (15) days to prepare and send his or her bill to the parties. The parties shall have fifteen (15) days thereafter to pay the mediator. If the mediator's bill is not paid within thirty (30) days after the close of mediation, the mediator may file a bill with the Court and it shall be reduced to judgment unless objected to by one of the parties within ten (10) days after the

filing of the bill with the Court.

B. Arbitration Procedures

1. Arbitration procedures shall be governed by A.D.R. Rule 3.
2. Attorneys wishing to serve as arbitrators in the Marion Circuit or Superior Court shall file written notice with the Marion Superior Court Administrator indicating a desire to serve as an arbitrator for cases in Marion County.
3. Arbitrators shall be entered into the Court's computer system. If the parties are unable to agree on a single arbitrator, the Court will generate a list of three arbitrators by random selection through the computer. In the event that the parties wish to have a panel of three arbitrators, each party shall select one arbitrator and the Court will name the third arbitrator by random selection through the computer.
4. After the arbitrator selection process has been completed, the party which initiated the litigation shall submit a proposed order appointing the person or persons selected by the parties to act as arbitrator or arbitrators in the case.
5. Unless otherwise agreed to by the parties, arbitrators shall be paid at the rate of One Hundred Dollars (\$ 100.00) per hour in accordance with A.D.R. Rule 3.3.

C. Mandatory Mediation

1. Civil Jury Trials. All cases where a timely demand for jury trial is made, mediation pursuant to A.D.R. Rule 2 and subsection A herein is mandatory. Mediation is to be completed sixty (60) days prior to trial, unless the mediation referral is vacated for good cause shown. Objections to mediation may be made within fifteen (15) days of the completion of the case management conference required by Rule 16.1(A).
2. Post-Decree Domestic Litigation. Parties must submit post-decree child related issues to mediation prior to presenting such issues to the Court for hearing, unless this rule is waived for good cause shown.
3. Pro Bono Mediation Services. All mediators maintained on the Court's approved Civil and Domestic Mediation list shall, upon request from any Judge of this Court, serve as a pro bono mediator for at least one (1) case per calendar year.

Any litigant affected by this mandatory mediation order may qualify for pro bono mediation services upon good cause shown, pursuant to criteria established by the Presiding Judges of the Court.

D. General Provisions

1. These rules are designed to clarify and supplement the Rules for Alternative Dispute

Resolution promulgated by the Indiana Supreme Court on January 1, 1992. The rules promulgated by the Indiana Supreme Court shall be followed in every way by the parties and shall govern the various forms of Alternative Dispute Resolution stated therein.

2. The failure to comply any with any Court Order regarding Alternative Dispute Resolution may result in appropriate sanctions being levied by the Court.